



Development Density Options and Recommendations

**Shoreland Lot Sizes
Impervious Surfaces
Nonconforming Lots
Setback Averaging**

June 24, 2003 Advisory Committee Meeting

Setback Averaging

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June 24, 2003

Current Standard

- “Unless an existing pattern of development exists, a setback of 75 feet from the OHWM of an adjacent body of water to the nearest part of a building or structure, shall be required for all buildings and structures, except piers, boat hoists, and boathouses.”
[NR115.05(3)(b)1.]

Problems with Current Language

- “Pattern of Development” is not defined in NR115, so must rely on Attorney General’s opinion for clarification
- 1968 Model Ordinance created “setback averaging” to reduce OHWM setbacks, but it is not a standard
- Intent of providing a reduced setback is not clear - Fairness? Preserve views?

Reduced Setback Issues

- What is the purpose of setback averaging?
- How large of a viewshed does one need?
- Since it may not ensure equitable treatment for all property owners, should we continue using setback averaging?
- Why should we allow new structures to be built at a reduced setback if a compliant location exists?

What Have Counties Done?

- Developed own variations of setback averaging addressing:
 - minimum number of buildings
 - distance building site must be from adjacent properties
 - limit on how far setback can be reduced
- Abandoned setback averaging or replaced it with a formula approach for nonconforming lots

Impacts of Continuing to Allow Reduced Setbacks

- Creates more new construction in sensitive buffer zones near the water's edge, with potential impacts on water quality and wildlife habitat
- Inconsistent regulations between new “averaged” structures and existing nonconforming structures

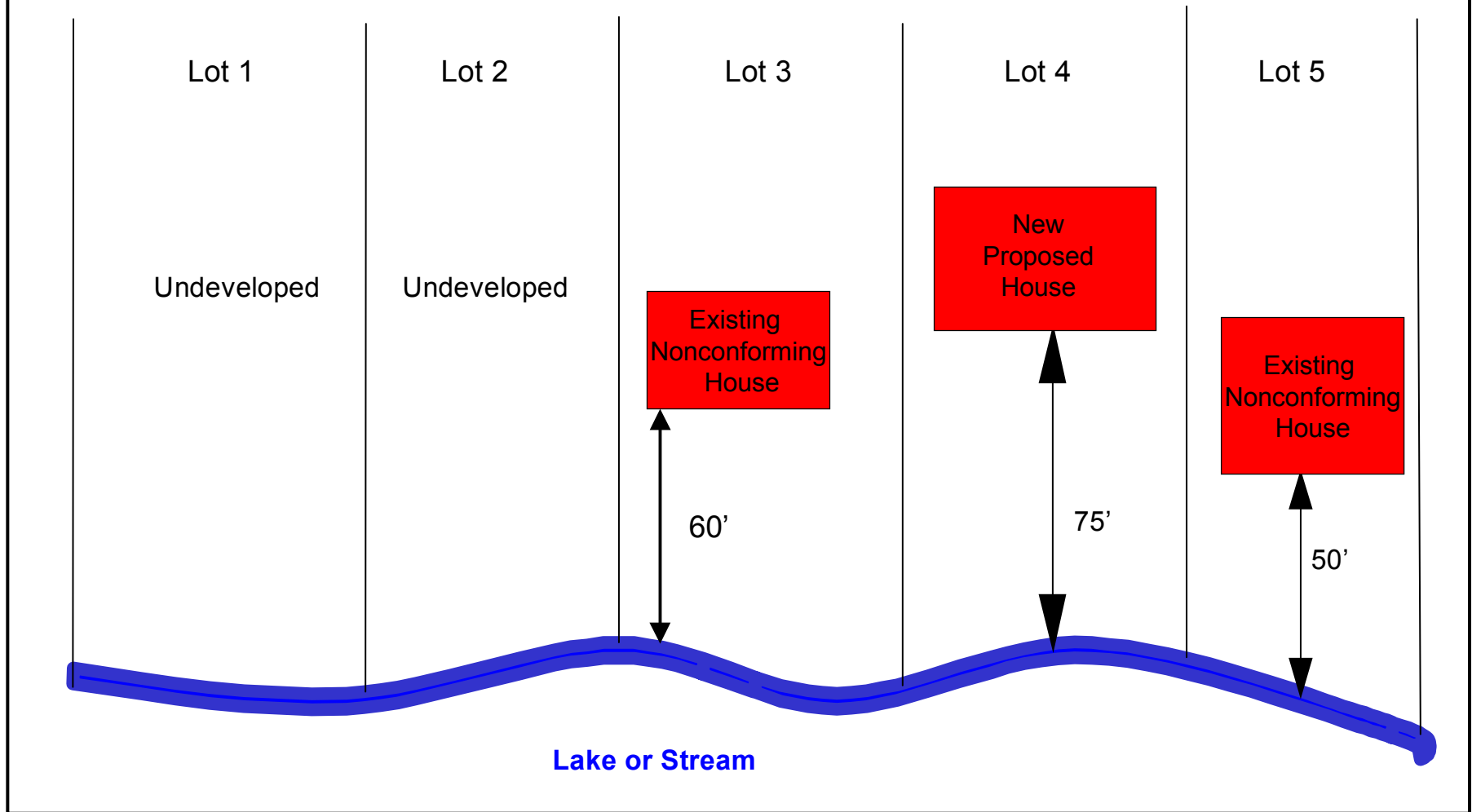
Guiding Principles

- New construction that is allowed within the OHWM setback area has the potential for impacts on water quality, wildlife habitat, and natural scenic beauty, the same as, or even greater than, modifications to existing nonconforming structures.

Guiding Principles

- If a property can satisfy the criteria for setback averaging, and the property owner decides to utilize a reduced setback, then the principal structure should be required to meet the same size limitations and mitigation requirements as would apply to the ordinary maintenance, repair or expansion of nonconforming structures.

Setback Averaging



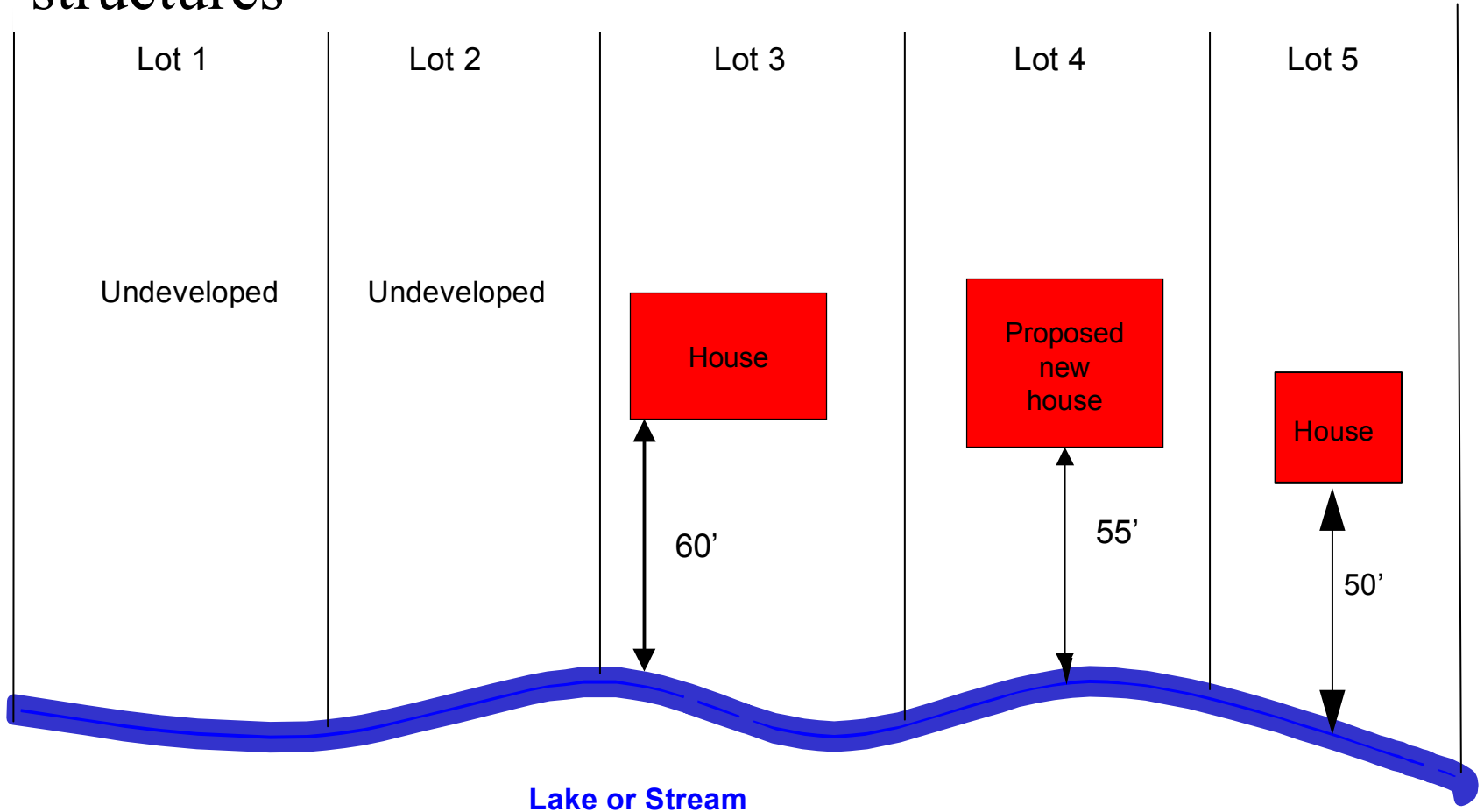
Recommended Regulations

- The Department recommends that to qualify for setback averaging **for a principal structure**, there must be principal structures within 100 feet on both sides of the proposed building site that are built at less than the required setback. The reduced setback may not result in a new structure in the primary buffer and shall be:

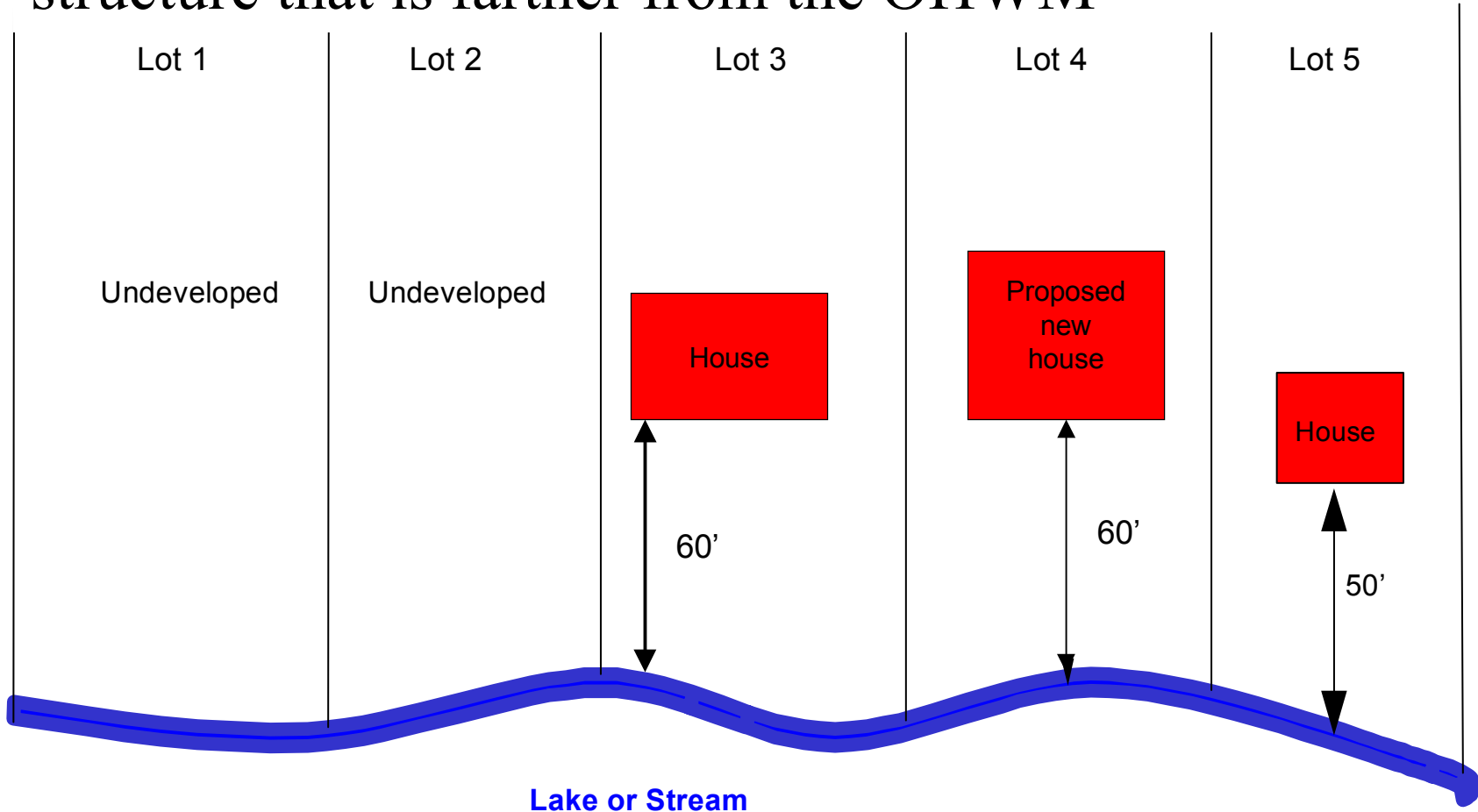
Recommended Regulations

- Size limits shall be consistent with the limited expansion limits for nonconforming structures
- The primary buffer must be preserved or restored

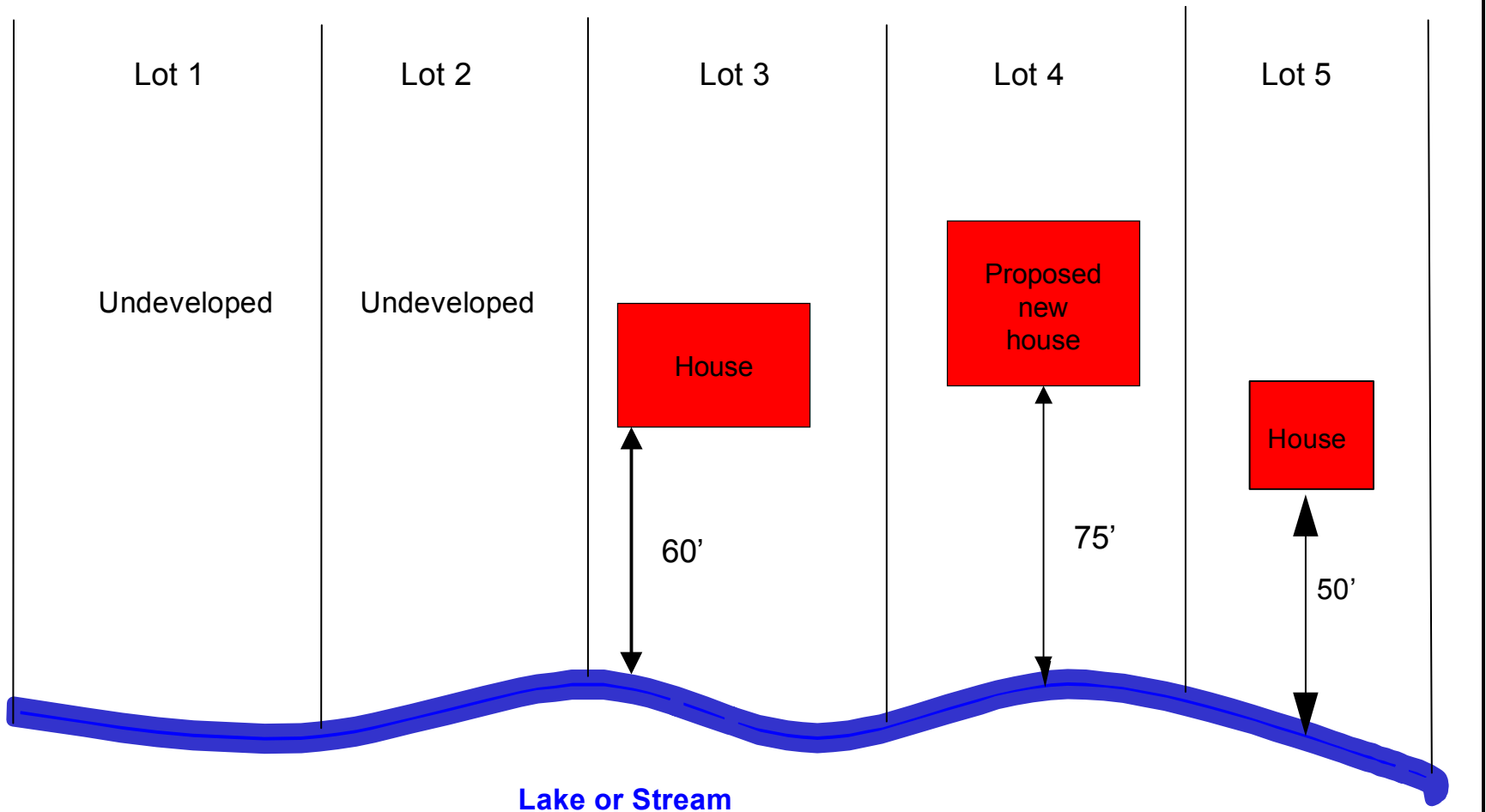
Option A: The average of the adjacent principal structures



Option B: The same setback as the adjacent structure that is farther from the OHWM



Option C: No setback averaging allowed



Committee Decisions on Setback Averaging

Should we allow Setback Averaging if there is a compliant building location?

5 yes

- Option A - 2
- Option B - 1
- Option C - 0
- Option D - 2

13 no

Committee Decisions on Setback Averaging

Should we allow Setback Averaging when there is not a compliant building location?

Yes 13

No 5

Recommended Regulations

- A. The average of the adjacent principal structures
- B. The same setback as the farther of the two adjacent principal structures
- C. “Unless an existing pattern of development exists, a setback of 75 feet from the OHWM of an adjacent body of water to the nearest part of a building or structure, shall be required for all buildings and structures, except piers, boat hoists, and boathouses.”
[NR115.05(3)(b)1.]
- D. The same setback as the closer of the two adjacent principal structures

Recommended Regulations

In addition to preserving or restoring the primary buffer, the county may require additional mitigation measures based on the scope and location of the proposed project.

Mitigation End-Point

- For future projects that would otherwise require mitigation, if the property owner continues to maintain the primary buffer and any additional mitigation practices required by the county, implementation of additional mitigation practices will not be required.